

124 FERC ¶ 61,146
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Dominion Transmission, Inc.

Docket No. CP08-33-000

ORDER ISSUING CERTIFICATE

(Issued August 6, 2008)

1. On December 10, 2007, Dominion Transmission, Inc. (Dominion) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), for a certificate of public convenience and necessity to construct and operate a 4,740 horsepower (hp) compressor station and two miles of 20-inch diameter pipeline in Westmoreland County, Pennsylvania (Dominion Hub I Project). This order grants the requested certificate authorizations, subject to the conditions set forth herein, and grants a predetermination supporting rolled-in rate treatment for the project's costs.

Background

2. Dominion, a corporation organized under the laws of the State of Delaware, is engaged primarily in the business of storing and transporting natural gas in interstate commerce for customers principally located in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland and the District of Columbia. Dominion operates a large, integrated underground natural gas storage system and approximately 10,000 miles of pipeline.

Proposal

3. Dominion proposes to construct the Rock Springs Compressor Station, a new 4,740 hp compressor station and two short 20-inch pipelines in Westmorland County, Pennsylvania. The proposed LN-25 Extension 3 pipeline would extend approximately 0.5 miles from Dominion's existing Oakford Compressor Station into the proposed Rock Springs Compressor Station. The proposed TL-574 pipeline would extend approximately 1.5 miles from the Rock Springs Compressor Station to a proposed new meter station and interconnection (Delmont Interconnect) with Texas Eastern Transmission Company (Texas Eastern). Dominion states that the proposed Dominion Hub I Project will provide

up to 200,000 dekatherms (Dth) per day of firm transportation capacity in the summer months and 150,000 Dth per day in the winter months.¹ The estimated cost of the proposed facilities is approximately \$34.4 million.

4. Dominion states that the proposed project is designed to facilitate the arrival of new gas supplies from the western United States transported on the Rockies Express Pipeline LLC (Rockies Express) system, including the recently certificated REX-East project.² As part of the REX-East project, three delivery points into Dominion's system are proposed to be constructed in Ohio at Lebanon, then at Noble, and finally at the project terminus in Clarington. Dominion attests that, commencing January 1, 2009, the REX-East project will have the capacity to deliver 1.6 Bcfd to the Clarington, Ohio area.³

5. Pursuant to an open season held in May and June of 2006, Dominion executed a precedent agreement with BP Energy Company (BP Energy) for an initial term of ten years for the full capacity to be created by the project. Dominion will provide firm transportation service under its existing Rate Schedule FT, and has agreed to charge BP Energy a discounted, fixed reservation charge that is slightly greater than what an incremental rate derived from the incremental cost of service would be.⁴ Thus, Dominion requests a predetermination that rolled-in rate treatment for the costs of the Dominion Hub I Project is appropriate. Dominion states that, consistent with BP Energy's request, it intends to place the proposed facilities into service by November 1, 2009.

Notice and Interventions

¹ The summer period is defined in Dominion's tariff as seven consecutive months beginning April 1 and ending on October 31 of a calendar year. The winter period consists of five months beginning on November 1 and ending on March 31 the succeeding year.

² *Rockies Express Pipeline LLC*, 123 FERC ¶ 61,234 (2008).

³ Rockies Express anticipates phasing in service for the REX-East project with 1,600,000 Dth per day of capacity in service by January 1, 2009, and the full 1,800,000 Dth per day in service on June 30, 2009. *Id.* at n. 14.

⁴ The discounted rate will apply to transportation service utilizing BP Energy's primary receipt points at Noble and Clarington and the primary delivery point to Texas Eastern at the new Delmont Interconnect. For transportation utilizing secondary points, Dominion will charge the generally applicable maximum tariff reservation charge under its Rate Schedule FT.

6. Notice of Dominion's application was published in the *Federal Register* on December 31, 2007 (72 Fed. Reg. 74,276). Timely, unopposed motions to intervene were filed by: National Fuel Gas Distribution Corporation; Atmos Energy Corporation; BP Energy Company and BP America Production Company (BP Energy and BP America); The East Ohio Gas Company, The Peoples Natural Gas Company, and Hope Gas, Inc. (collectively, the Dominion LDCs); Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works; Statoil Natural Gas LLC; the City of Richmond, Virginia; PECO Energy Company; PSEG Energy Resources & Trade, LLC; New Jersey Natural Gas Company; and the National Grid Gas Delivery Companies (National Grid).⁵ These timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁶

7. UGI Distribution Companies, Fairview Park Association, and John Borchin filed motions to intervene out of time. These entities have shown an interest in this proceeding and their intervention at this stage of the proceeding will not cause undue delay or unfairly prejudice the rights of any other party. Accordingly, for good cause shown, we will permit their late intervention.⁷

8. BP Energy and BP America filed comments in support of Dominion's application stating that the proposed project will help alleviate potential bottlenecks for access to substantial, new Rocky Mountain supplies by Northeast and Middle Atlantic States. Fairview Park Association and John Borchin (jointly with Paul Henderson, Ronald Gebrosky, and Ken Dunnivan) filed timely comments on environmental issues which are addressed in the environmental assessment (EA). Further comments were received from landowners in response to environmental scoping meetings and the EA. Those comments are discussed below.

9. National Grid raises concerns that the project will increase fuel use and asks that the Commission deny Dominion's request for a predetermination that the costs of the project should receive rolled-in rate treatment. On January 18, 2008, Dominion filed a response to National Grid. While answers to protests are generally prohibited by our Rules of Practice and Procedure,⁸ the Commission finds good cause to waive Rule 213(a)

⁵ The National Grid Gas Delivery Companies are: The Brooklyn Union Gas Company; KeySpan Gas East Corporation; Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company; Niagara Mohawk Power Corporation; and The Narragansett Electric Company.

⁶ 18 C.F.R. § 385.214(a)(3) (2008).

⁷ 18 C.F.R. § 385.214(d) (2008).

⁸ 18 C.F.R. § 385.213(a)(2) (2008).

to allow Dominion's answer in order to clarify the issues in this proceeding. National Grid's comments are addressed below.

Discussion

10. Because Dominion seeks to construct facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

11. The Commission's Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.⁹ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

12. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

13. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Dominion intends to use its currently effective system recourse rates as the

⁹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

initial section 7 rates for services using the proposed expansion capacity. Since none of the project costs are included in Dominion's currently effective rates, accepting Dominion's proposal to charge those rates as initial rates for the project will not result in subsidization by existing customers. Further, as discussed below, rolled-in rate treatment for the project's costs in a future rate proceeding will result in lower rates for existing customers. Thus, existing shippers will not subsidize the Dominion Hub I Project.

14. There will be no adverse operational impact on Dominion's existing customers as a result of the construction, since the project is properly designed to meet BP Energy's request for firm transportation service of up to 200,000 Dth per day in the summer and 150,000 Dth per day in the winter without degrading service to existing customers. The Dominion Hub I Project may benefit existing customers by creating incremental capacity from new receipt points, as well as creating a new delivery point, which they can use on a secondary and interruptible basis to access new, western gas supplies.

15. The Dominion Hub I Project is designed to create expansion capacity to transport new supplies sourced in the Rocky Mountains. There is no evidence that service on other pipelines will be displaced as a result of the proposed project and no pipeline objected to Dominion's proposals. For these reasons, we conclude that existing pipelines and their customers will not be adversely affected by the Dominion Hub I Project.

16. The Dominion Hub I Project will require permanent easements for approximately 26 acres, including the land necessary for the permanent right-of-way and aboveground facilities. Dominion either owns or has obtained easements for the acreage needed for the aboveground facilities (about 55 percent of total acreage) and will negotiate with landowners for the remaining acreage needed for the pipeline right-of-way.¹⁰ Alternatives to the pipeline routing were considered by the Commission's staff in preparing the EA and rejected. Therefore, we find that Dominion has designed its proposed project and is acting to minimize effects on landowners and communities.

17. Dominion has entered into a long-term precedent agreement with BP Energy for 100 percent of the capacity of the Dominion Hub I Project.¹¹ In addition, the project facilitates the introduction of new, competitive Rocky Mountain supplies to markets eastward of the terminus of the Rockies Express pipeline system. As we have previously recognized, there is a need for increased pipeline capacity to access gas supplies

¹⁰ Dominion's February 19, 2008 and April 17, 2008 data responses.

¹¹ Consistent with our standard practice, we will condition our certificate authorization so that construction cannot commence until after Dominion executes contracts that reflect the levels and terms of service represented in its precedent agreement.

produced in the Rocky Mountain region.¹² Based on the benefits the Dominion Hub I Project will provide and the lack of any identified adverse impacts on Dominion's existing customers or on other pipelines and their customers, and limited impacts on landowners and communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the Natural Gas Act, that the public convenience and necessity requires approval of Dominion's proposed project, subject to the conditions set forth herein.

B. Rates

18. Dominion will provide firm transportation service using the capacity created by the Dominion Hub I Project under its existing Rate Schedule FT system rates, and BP Energy has agreed to pay a discounted, fixed reservation charge for the entire firm capacity of the project. Dominion requests a predetermination that rolled-in rate treatment for the costs of the Dominion Hub I Project is appropriate and states it will seek to roll in the costs at the time of its next NGA section 4 general rate case.

19. On January 10, 2008, National Grid filed comments asking that the Commission deny Dominion's request for a predetermination supporting rolled-in rate treatment for the costs of the Dominion Hub I Project. In particular, National Grid raises concerns regarding the possible impact the project will have on system fuel costs. National Grid emphasized that Dominion's Hub I Project involves the installation of additional compression facilities and will increase the total horsepower on the system by approximately 4,740 hp. National Grid expressed concern that existing shippers' fuel charges could increase as a result of the operation of the proposed project, with the result that the Dominion Hub I Project would be cross-subsidized by existing customers.¹³

20. On January 18, 2008, Dominion filed a response stating that existing shippers' fuel charges are fixed until the effective date of any changes as an outcome of Dominion's next general rate case, in which all issues associated with setting just and reasonable fuel charges can be considered.¹⁴ Dominion also emphasizes that, while its project will increase compression on its system by approximately one and one half percent, firm transportation determinants will increase by approximately four percent. Dominion, therefore, states that fuel charges collected from services using the capacity created by

¹² See, e.g., *Rockies Express Pipeline LLC*, 116 FERC ¶ 61,272, at P 40 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177, at P 23 (2005).

¹³ National Grid filing at p. 4.

¹⁴ Dominion response at p. 6.

the Dominion Hub I Project customer will more than cover the increased fuel costs associated with the increase in compression.¹⁵

21. As shown in Exhibit N to Dominion's application filed on December 10, 2007, Dominion will charge the applicable fuel retention rate for service pursuant to Rate Schedule FT, which is 2.85 percent. The flow diagrams in Exhibits G and G1 to Dominion's application show the proposed project as having minimal impact on current fuel retention levels since there will be no change in fuel consumption during the winter and only a small increase in fuel consumption during the summer. Indeed, rather than increasing the fuel retention rate, the additional billing determinants resulting from the capacity added by the Dominion Hub I Project should help to eventually decrease the fuel retention rate.

22. Dominion states that its requested predetermination supporting rolled-in rate treatment for the costs of the Dominion Hub I Project should be granted since the revenues from its firm service agreement with BP Energy will exceed the projected incremental costs.¹⁶

23. Although Dominion has agreed to charge BP Energy a discounted rate under Rate Schedule FT, revenues will still exceed the cost of service associated with the expansion capacity by approximately \$3.4 million over the 10-year term of the service agreement. Further, in this instance, an incrementally calculated initial rate for firm service using the proposed expansion capacity would be less than Dominion's generally applicable Rate Schedule FT rate. Therefore, allowing Dominion to provide its initial services using the expansion capacity under generally applicable Rate Schedule FT will provide Dominion with the opportunity to fully recover the cost of service associated with the expansion capacity, and existing customers should benefit from lower rates as a result of the expansion capacity being afforded rolled-in treatment in Dominion's next general section 4 rate case, which will be in 2010. In this regard, we note that all discounted rates are subject to examination in general NGA section 4 filings, especially if accompanied by a proposal to shift costs through a discount adjustment.

24. In view of the above considerations, the Commission will allow Dominion to provide its initial services using the proposed expansion capacity under Rate Schedule FT and grant its request for a predetermination supporting rolled-in rate treatment absent a material change in circumstances.

C. Environmental Analysis

¹⁵ *Id.* at p. 7-8.

¹⁶ Dominion answer at p. 5.

25. On January 11, 2008, we issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Hub I Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to about 250 individuals, organizations, federal and

state agency representatives; county and local government agencies; elected officials; local libraries and newspapers; property owners affected by the pipeline route; and other interested individuals.

26. In response to the NOI, we received four comment letters from landowners adjacent to the new Rock Springs Compressor Station. These letters expressed concern regarding vibration and noise associated with the operation of Dominion's existing Oakford Compressor Station and the likelihood that operation of the Rock Springs Compressor Station would be additive to these impacts. Other concerns include impacts on property values, visual impacts, and the new compressor station's impact on the area's diminishing groundwater levels.

27. Our staff prepared an EA for Dominion's proposed Dominion Hub I Project. The EA, which was issued and placed in the record on April 28, 2008, addresses all of the concerns raised in comments received in response to the NOI.¹⁷ The EA also addresses land requirements; water use and quality; fish, vegetation, and wildlife; threatened and endangered species; cultural resources; air quality; noise; land use; and alternatives. The EA includes recommended environmental conditions which are adopted and set forth in the appendix to this order.

28. The EA estimates that noise levels attributable to operation of the Rock Springs Compressor Station would increase slightly at the nearest noise-sensitive areas (NSA). However, the increase is not likely to be perceptible to the human ear at these locations.¹⁸ Environmental Condition 12 requires Dominion to conduct a noise survey to confirm predicted noise levels. Additionally, Environmental Condition 13 will ensure that there will not be a perceptible change in vibration levels at the nearest NSAs.¹⁹

29. The EA also addresses the possibility of the new compressor station impacting nearby property values and comes to the conclusion that if the project would make an

¹⁷ On April 28, 2008, staff also issued a Notice of Availability of the Environmental Assessment for the Proposed Hub I Project. The notice stated that comments on the EA were due May 28, 2008. Sixty copies of the EA were distributed to federal and state agencies, local libraries and newspapers, and persons that had responded to the NOI.

¹⁸ EA at pp. 31-32.

¹⁹ EA at p. 33.

intended future use of the property infeasible, it is possible that a potential purchaser may not acquire the parcel. However, each potential purchaser has differing criteria and

means.²⁰ Therefore, we believe any quantification of impacts on property values would be speculative. Further, with implementation of Dominion's visual screening plan, visual impacts on nearby residents would be reduced.

30. Finally, the EA addresses the concern raised regarding the project's potential impact on groundwater levels in the project area. Hydrostatic test water for the pipeline would be obtained from Beaver Run. Dominion would purchase water from a municipal source and deliver it to the site for any site-specific needs during construction. During operation of the compressor station, Dominion would get water either from a well or a municipal source, but would not require large volumes of water. Consequently, the EA concludes that project construction and operation would result in minimal impact on groundwater levels.²¹

31. After issuance of the EA, we received comment letters from Jan Spisak. Mr. Spisak states that there are springs in the area of construction for the Rock Springs Compressor Station, and he is concerned about impacts on the springs and nearby water wells. While Dominion did not identify any springs within 150 feet of the project area, if any springs are found during construction in areas of project-related disturbance, Dominion will treat the springs as waterbodies and adhere to the Commission's Wetland and Waterbody Construction and Mitigation Procedures. Dominion's adherence to these procedures will ensure that any impacts on springs are minimized to the extent practicable.

32. Fairview Park is a property eligible for the National Register of Historic Places. Fairview Park has requested to be a "consulting party" in the National Historic Preservation Act section 106 process as it relates to their property. The Rock Springs Compressor Station will be adjacent to Fairview Park.

33. The implementing regulations for the National Historic Preservation Act provide that "[c]ertain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties." 36 C.F.R. 800.2 (c)(5) (2008). We have considered Fairview Park's request and have decided to grant them "consulting party" status for the portion of the project that affects their property.

²⁰ EA at p. 20.

²¹ EA at p. 10.

34. We received a letter from the Pennsylvania Historical and Museum Commission dated April 30, 2008, stating its belief that a compressor station will have visual and audible adverse effects on Fairview Park. We note that Dominion has committed to a visual screening plan and included a computer simulation of the visual impact of the new compressor station on Fairview Park. The estimated noise increase at the compressor station boundary with the park (about 2.0 decibels on the A-weighted scale) would likely not be perceptible to the human ear. As discussed above, Environmental Condition 12 requires Dominion to file a noise survey after the compressor station is operational to verify that noise attributable to station operation is at predicted levels. Further, in addition to the EA's recommended conditions, we have added another condition (Environmental Condition Number 11) which provides that Dominion may not commence construction of any facilities until the National Historic Preservation Act's consultation process has been completed and the Director of the Commission's Office of Energy Project notifies Dominion in writing that it may proceed.

35. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Dominion's application, supplemental data responses, and environmental conditions set forth in Appendix B to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

36. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.²²

Summary

37. For the reasons discussed above, the Commission finds that the benefits of the Dominion Hub I Project will outweigh any potential adverse effects, that the proposed project is consistent with the Commission's Certificate Policy Statement on new facilities, and that the proposed new facilities are required and permitted by the public convenience and necessity. The Commission further finds that, absent a significant change in material circumstances, the costs associated with the Dominion Hub I Project

²² See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

will qualify for rolled-in rate treatment when Dominion makes a future NGA section 4 filing to recover these costs.

38. The Commission on its own motion, received and made a part of the record all evidence, including the application (s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket No. CP08-33-000 authorizing Dominion to construct and operate the Dominion Hub I Project in Westmoreland County, Pennsylvania, as more fully described in this order and the application.

(B) The certificate authority issued in Ordering Paragraph (A) shall be conditioned on the following:

(1) Dominion's completion of the authorized construction of the proposed facilities and making them available for service within 18 months of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations;

(2) Dominion's compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) Dominion's execution of a firm contract for the capacity levels and term of service represented in its precedent agreement prior to commencing construction; and

(4) Dominion's compliance with the environmental conditions listed in the appendix to this order.

(C) Dominion's request for a predetermination supporting rolled-in rate treatment for the costs of the project in its next general NGA section 4 rate proceeding is granted, absent a significant change in material circumstances, as discussed in the body of this order.

(D) Dominion shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of an environmental noncompliance identified by other federal, state or local agencies on the same day that such agency notifies Dominion. Dominion shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) The motions by UGI Distribution Companies, Fairview Park and John Borchin to intervene out of time are granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Environmental Conditions

As recommended in the Environmental Assessment, this authorization includes the following conditions:

1. Dominion Transmission, Inc. (Dominion) shall follow the construction procedures and mitigation measures described in its application, supplements (including responses to staff data requests), and as identified in the Environmental Assessment (EA), unless modified by the Commission Order. Dominion must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the Commission Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from the project construction and operation.
3. **Prior to any construction**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets and data responses. **As soon as they are available, and before the start of construction**, Dominion shall file with the Secretary any

revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Commission Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must reference locations designated on these alignment maps/sheets.

Dominion's exercise of eminent domain authority granted under the Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with the authorized facilities and their locations. Dominion's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Dominion shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the Upland Erosion Control, Revegetation and Maintenance Plan and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alternations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resource mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;
- c. recommendations by state regulatory authorities; and
- d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within 60 days of the acceptance of its Certificate and before the start of construction**, Dominion shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Dominion will implement the mitigation measures required by the Commission Order. Dominion must file revisions to the plan as schedules change. The plan shall identify:
- a. how Dominion will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - b. the number of EIs assigned per project area, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. the company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - d. the training and instructions Dominion will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - e. the company personnel (if known) and specific portion of Dominion's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Dominion will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the mitigation training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. Dominion shall employ at least one EI. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Commission Order and other grants, permits, certificates, or authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions

- of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
- f. responsible for maintaining status reports.
8. Dominion shall file updated status reports prepared by the head EI with the Secretary on a **bi-weekly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the EI during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - c. a description of corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Commission Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Dominion from other federal, state, or local permitting agencies concerning instances of noncompliance, and Dominion's response.
9. Dominion must receive written authorization from the Director of OEP **before commencing service** of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas of project-related disturbance are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facility in service**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions Dominion has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

11. Dominion shall not commence construction of any facilities until:
 - a. Dominion consults with the Board of Directors of Fairview Park regarding potential effects of the project and any mitigation measures the Board might recommend to avoid potential adverse effects on the historic property;
 - b. Dominion files with the Secretary the results of this consultation, along with any avoidance or treatment plans;
 - c. Dominion files with the Secretary any Pennsylvania State Historic Preservation Office comments regarding consultation, and their comments on any resulting plans;
 - d. the Advisory Council on Historic Preservation has been provided an opportunity to comment if it is determined that Fairview Park would be adversely affected; and
 - e. the Director of OEP reviews and approves all reports and plans and notifies Dominion in writing that it may proceed with treatment or construction.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.”**

12. Dominion shall make all reasonable efforts to assure its predicted noise levels from the Rock Springs Compressor Station are not exceeded at nearby noise sensitive areas (NSA) and file noise surveys showing this with the Secretary **no later than 60 days** after placing the Rock Springs Compressor Station in service. However, if the noise attributable to the operation of the Rock springs Compressor Station at full load exceeds the total day-night sound level of 55 decibels on the A-weighted scale at any nearby NSAs, Dominion shall file a report on what changes are needed and shall install additional noise controls to meet the level **within 1 year** of the in-service date. Dominion shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
13. Dominion shall provide an analysis containing a pre- and post-operation vibration survey of the Rock Springs Compressor Station at peak load at any nearby NSAs. This analysis shall be filed with the Secretary **no later than 60 days** after placing the Rock Springs Compressor Station in service. If the analysis indicates a perceptible change in peak vibration attributable to operation of the Rock Springs Compressor Station at any nearby NSA, Dominion shall file a report on what changes are needed and shall install/implement additional vibration control mitigation measures **within 90 days** thereafter. Dominion shall confirm

compliance with this requirement by filing the results of a second vibration analysis with the Secretary **no later than 60 days** after it installs/implements the additional vibration controls.